

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

MARTHA MARIE FLANAGAN,

Plaintiff,

v.

KELLY R. JOHNSTON, et al.,

Defendant.

CASE NO. C24-5313 BHS

ORDER

THIS MATTER is before the Court on pro se plaintiff Martha Marie Flanagan's December 6, 2024, motion for leave to appeal *in forma pauperis*, Dkt. 18.

On June 21, 2024, the Court adopted Magistrate Judge Theresa L. Fricke's Report and Recommendation (R&R), Dkt. 5, denied Flanagan's application to proceed *in forma pauperis*, dismissed the case without prejudice for failure to state a plausible claim, and entered a judgment. Dkts. 8, 9. Flanagan did not appeal.

The Court denied Flanagan's motion to re-open the case on September 17, 2024. Dkt. 13. Flanagan purported to file a notice of appeal of that order on October 8. Dkt. 14.

1 Flanagan now asks the Court to permit her to appeal *in forma pauperis*. Dkt. 18.  
2 Her motion is on a Ninth Circuit standard financial form, and it asserts that she has no  
3 assets. The Court accepts that Flanagan is indigent and cannot afford the filing fee.

4 But proceeding *in forma pauperis* status also requires the plaintiff to state a  
5 plausible claim, or make a showing that there is some potential merit to her appeal. *See*  
6 28 U.S.C. § 1915(a)(3) (an appeal may not be taken *in forma pauperis* if the trial court  
7 certifies in writing that it is not taken in good faith.).

8 The Court cannot conclude that Flanagan's appeal is taken in good faith because it  
9 does not have any substantive merit. First, the appeal is facially time-barred. The  
10 underlying judgment, Dkt. 9, was entered six months ago. *See* Fed. R. App. P. 4(a)  
11 (notice of appeal must be filed within 30 days of the judgment or order). Second, there is  
12 no plausible merit to Flanagan's underlying claims. *See* R&R, Dkt. 5, outlining the  
13 deficiencies in Flanagan's claim.

14 Flanagan's motion to appeal *in forma pauperis*, Dkt. 18, is **DENIED**. The case  
15 remains closed.

16 **IT IS SO ORDERED.**

17 Dated this 7th day of January, 2025.

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20 BENJAMIN H. SETTLE  
21 United States District Judge  
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